

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Inbound Competitive Multi-Service Agreements with
Foreign Postal Operators
Hongkong Post–United States Postal Service
Bilateral Agreement (MC2010-34)
Negotiated Service Agreement

Docket No. CP2014-21

PUBLIC REPRESENTATIVE COMMENTS ON POSTAL SERVICE
NOTICE CONCERNING ADDITIONAL INBOUND COMPETITIVE MULTI-SERVICE
AGREEMENT WITH FOREIGN POSTAL OPERATOR

(January 2, 2014)

The Public Representative provides comments pursuant to Order No. 1929.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons on a Postal Service Notice.² The Notice involves the delivery of inbound Air CP (international parcel post) in accordance with a bilateral agreement with Hongkong Post effective March 1, 2014 for a one year term unless terminated earlier. Notice at 1 and 3.

In its Notice, the Postal Service asserts that the Hongkong Post Agreement is functionally equivalent to the baseline agreement³ with similar products and cost characteristics. Id at 5

¹ Notice and Order Concerning Additional Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Hongkong Post), December 27, 2013 (Order No. 1929).

² Notice of the United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with a Foreign Postal Operator, December 26, 2013 (Notice).

³ 2013-2014 HongKong Post Agreement

The Postal Service states that the Agreement fits within applicable Mail Classification Schedule language and identifies differences that it asserts do not change the fundamental service or structure of the agreement. *Id.* at 5.

COMMENTS

The Public Representative has reviewed the Postal Service's Notice, the unredacted Hongkong Post Agreement, supporting financial model, the baseline agreement and the provisions of 39 CFR 3015.5 and 3015.7 and 39 U.S.C. 3633.

Functional Equivalency. Based upon review, the Public Representative concludes that the Hongkong Post Agreement is functionally equivalent to the baseline agreement. The differences identified by the Postal Service between the two agreements do not substantively impact any cost or market characteristics as they are in the nature of updates to the predecessor agreement.

The Public Representative notes that the current agreement splits small packets with delivery scanning between average quarter weight below, and equal to and above 300 pounds, with an appropriate change in costs. There are few products such as Letter Post included in the predecessor agreement which are omitted from the current agreement.

The Hongkong Post Agreement also changes the language of Article 11 Indemnification and Liability, specifically Clause 3 by omitting the word "actual" from the second sentence and the exception stated in paragraph 3 a. by omitting paragraph 2 included in the baseline agreement. The Commission should consider whether these

changes to the language of Article 11 of the agreement, not highlighted by the Postal Service in its Notice, could be construed as substantive.

Statutory Criteria. The Public Representative concludes that based on the financial analyses provided Air Parcels should cover their attributable costs and should not be subsidized by market dominant products⁴. Additionally they should make a positive contribution to competitive product's share of institutional costs⁵.

The Public Representative provides these comments for the Commission's consideration.

Respectfully submitted,

Cassie D'Souza

Public Representative

901 New York Avenue NW Suite 200

Washington, DC 20268-0001

cassie.dsouza@prc.gov

202-789-6815

⁴ 39 U.S.C. 3633(a)(2) and (1)

⁵ 39 U.S.C. 3633(a)(3)